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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|---------------------|
| 10/708,894 | 03/30/2004 | Frederick KOBES | HF-P0001 | 2893 |
| 36067 | 7590 | 06/21/2004 | EXAMINER | |
| DALINA LAW GROUP, P.C. 7910 IVANHOE AVE. #325 LA JOLLA, CA 92037 | | | | MICHALSKY, GERALD A |
| ART UNIT | | PAPER NUMBER | | |
| | | 3753 | | |

DATE MAILED: 06/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|---|
| Office Action Summary | Application No. | Applicant(s) | M |
| | 10/708,894 | KOBES, FREDERICK | |
| | Examiner | Art Unit | |
| | Gerald A. Michalsky | 3753 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 06 May 2004.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: ____.

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1. The disclosure is objected to because of the following informalities: In paragraph 0001, line 2, "PCT/AU/01336" should be --PCT/AU02/01336--.

Appropriate correction is required.

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Australia on 02 October 2001. It is noted, however, that applicant has not filed a certified copy of the Australian application as required by 35 U.S.C. 119(b).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-7, 9, and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Sinker et al.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinker et al in view of Buckner et al. This claim is considered met by Sinker et al except that the flexible seal 13 of Sinker et al is not fixed to the outer body. It would have been obvious in view of seal 62 of Buckner et al to fix the seal to the outer body rather than to the shuttle since such a seal would function equivalently.

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7. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinker et al. These claims are considered met by Sinker et al except that the flexible seal 13 of Sinker et al is not a bucket seal. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to substitute a bucket seal for the O-ring seal 13 of Sinker because applicant asserts no criticality in the particular type of seal.

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claims 3 and 12 are further rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The recitation of "passageway the shuttle" in claim 3, lines 3-4 is non-idiomatic. Claim 12 is identical to claim 11, from which it depends.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald A. Michalsky whose telephone number is (703) 308-1049. The examiner can normally be reached on M-F 5:30 AM - 2 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (703) 308-1272. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gerald A. Michalsky
Primary Examiner
Art Unit 3753